

**Section 2**

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**Purpose**

To establish uniform criteria for the acceptance of complaints filed alleging violation of Act 166.

**Responsibility**

The investigator is responsible for reviewing all incoming complaints to determine whether they contain the minimum amount of information necessary for acceptance.

**Policy**

1. A written complaint by a construction mechanic or a third party that provides all of the following shall be accepted for investigation by the department:
  - a. name and address of the complainant;
  - b. name and address of contractor alleged to have committed the violation;
  - c. name and address of contracting agent;
  - d. project name and description;
  - e. location where the work was performed;
  - f. construction dates;
  - g. description of the complaint;
  - h. identification of the classification for each construction mechanic alleged to be underpaid.
2. A complaint which fails to provide the information listed in Policy 1 shall be returned to the individual or third party complainant. The department shall inform the complainant of specific deficiencies in the information provided and provide the complainant with an additional complaint form.
3. A complaint filed by a construction mechanic in accordance with Policy 1 shall be accepted as an individual complaint.
4. A complaint filed by a third party in accordance with Policy 1 shall be accepted as a third party complaint.

**ACCEPTANCE OF COMPLAINTS****D2.00**

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- 5 A complaint filed by a third party or representative on behalf of a construction mechanic, in accordance with Policy 1, shall:

- a. be accepted as an individual complaint, if the complaint includes a notice of representation by an attorney or signed, written authorization from the construction mechanic.

The third party shall be treated as a representative and be kept apprised of the investigation.

- b. be accepted as a third party complaint, if the complaint does not include a notice of representation by an attorney or signed, written authorization from the construction mechanic.

The third party shall be advised that the complaint will not be opened as an individual complaint because written authorization was not included.

6. The “complainant” shall be the construction mechanic, when a third party complaint filed on behalf of a construction mechanic, is accepted by the department.
7. The date of filing shall be the date received by the Wage & Hour Division.
8. A written complaint may be filed within 3 years of the alleged violation.

**NOTIFICATION OF COMPLAINT****D2.01**

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**Purpose**

To establish uniform guidelines for notifying the contracting agent/contractor/subcontractor of complaints filed.

**Responsibility**

The assigned investigator is responsible for requesting the support staff to send a letter notifying the contractor of a complaint if identification of a "state project" is determined in the field.

The administrative support staff is responsible for mailing the notification letter to the contractor/subcontractor and contracting agent on identified state projects.

**Policy**

1. A contractor/subcontractor and contracting agent shall be notified of any complaint filed against them unless:
  - a. the complaint is returned due to incomplete information, or
  - b. the complaint is determined to be outside the jurisdiction of the Act based on information submitted in response to a coverage letter, or
  - c. the complainant is exempt, or
  - d. the alleged violation precedes the three year record limitation.
2. Notification shall be provided in writing following a determination of coverage. The notification letter shall contain:
  - a. the nature of the complaint,
  - b. the project description,
  - c. the time period the violation is alleged to have occurred, and
  - d. the name of the complainant.
  - e. the potential of debarment under Executive Order 2003-1 (appendix H).
  - f. the contracting agent authority under Section 6 of the Act.
  - g. the posting requirement under Section 5 of the Act.
3. The contracting agent shall be notified of a complaint against a (sub) contractor.
4. The prime contractor if known, shall be notified of a complaint against a (sub)contractor.